IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

FRIDAY, THE 22ND JUNE 2007 / 1ST ASHADHA 1929

WP(C).No. 19355 of 2004(D)

PETITIONERS:
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1. **C.V. GODWIN, S/O. VASAVAN,**
   THAKIDIVELIYIL HOUSE KUTHIATHODE P.O.,
   KUTHIATHODE, ALAPPUZHA DISTRICT.

2. **UMMACHAN, S/O. ABIAS,**
   CHENAPARAMBIL HOUSE, ERAMALLOOR P.O.,
   ALAPPUZHA DISTRICT.

3. **V.K. PRAKASHAN, S/O. KUNAPPAN,**
   KANNATHARA NIKARTH, ERAMALLOOR P.O.,
   ALAPPUZHA DISTRICT.

4. **C.K. RAVEENDRAN, CHETTUTHERUVIL HOUSE,**
   EZHUPUNNA (N) P.O., CHERTHALA, ALAPPUZHA DIST.

5. **N. GEETHA, W/O. JAYADHARAN,**
   DEVIVILASAM, THIRUNALLOOR P.O.,
   CHERTHALA, ALAPPUZHA.

6. **P.S. KALADHARAN, KOOTTUNKAL HOUSE,**
   ERAMALLOOR P.O., ERAMALLOOR, ALAPPUZHA DIST.

7. **JOHN P. VARGHESE, PANACHITHARA HOUSE,**
   H.NO.IV/1412, ADIKARY VALPPU, KOCHI-01.

BY ADV. SRI.K.S.MOHAMED HASHIM
SMT.SINDHU HASHIM

W.P.(C) NO.19355/2004

RESPONDENTS:
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1. **STATE OF KERALA REPRESENTED BY ITS SECRETARY, LABOUR DEPARTMENT, THIRUVANANTHAPURAM.**

2. **THE DISTRICT LABOUR OFFICER, ALAPPUZHA.**

3. **MANAGING DIRECTOR, M/S. TORRY HARRIS SEA FOODS LTD., P.B.NO.2, ERAMALLOOR P.O., ALAPPUZHA DISTRICT.**

4. **HON'BLE LABOUR COURT, KOLLAM.**

BY ADV. SRI.ABRAHAM VAKKANAL
SRI.M.R.NANDAKUMAR
BY GOVERNMENT PLEADER SMT.K.R.DEEPA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.19355/2004

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE ORDER DT. 2.7.99 ISSUED BY THE 3RD RESPONDENT TO THE 1ST PETITIONER.

EXT.P2:- COPY OF THE REPRESENTATION DT. 25.11.99 SUBMITTED BY THE 2ND PETITIONER BEFORE THE 3RD RESPONDENT.

EXT.P3:- COPY OF THE REPLY SENT BY THE 3RD RESPONDENT TO THE 3RD PETITIONER.

EXT.P4:- COPY OF THE REPRESENTATION DT. 13.12.99 SUBMITTED BY THE 4TH PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P5:- COPY OF THE NOTICE ISSUED BY THE 2ND RESPONDENT TO THE PETITIONERS.

EXTP6:- COPY OF THE COMMUNICATION FROM THE OFFICE OF THE 1ST RESPONDENT TO THE 1ST PETITIONER.

EXT.P7:- COPY OF THE APPLICATION DT. 22.1.03 FILED BY THE PETITIONERS TO SET ASIDE THE EX-PARTE AWARD AND TO CONDONE THE DELAY IN FILING THE APPLICATIONS.

EXT.P8:- COPY OF THE AWARD DT. 9.5.02 OF THE HON'BLE LABOUR COURT IN I.D.NO.34/01 PUBLISHD BY THE 1ST RESPONDENT IN THE KERALA GAZETTE.

EXT.P9:- COPY OF THE ORDER DT. 28.8.03 PASSED BY THE LABOUR COURT KOLLAM IN CMP. NOS.47/03 AND 48/03 IN ID. NO.34/01.

RESPONDENTS EXHIBITS

EXT.R3(a):- COPY OF THE ORDER NO.2661/01/LBR DT. 6.9.01 OF THE 1ST RESPONDENT.

EXT.R3(b):- COPY OF THE LETTER DT. 15.10.99 FROM THE UNION INTUC TO THE 3RD RESPONDENT.

EXT.R3(c):- COPY OF THE SUMMONS SENT TO THE 3RD RESPONDENT DT. 16.10.03.

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KURIAN JOSEPH, J.

W.P. (C). NO. 19355 OF 2004

Dated this the 22nd day of June, 2007.

J U D G M E N T

Exhibit P8 Award passed by the Labour Court, Kollam in Industrial Dispute No. 34/2001 is under challenge. The issue referred for adjudication reads as follows.

> "Whether the termination of S/Sri. C.V. Godwin, (2) V.K. Prakasan, (3) C.A. Ummachan, (4) Geetha.N, (5) P.S. Kaladharan, (6) John P. Varghese, (7) C.K. Raveendran from service is legal and justifiable? If not, what reliefs they are entitled to?"

2. It is the submission of the petitioners that the union was not properly served with notice and hence it was set ex parte, and an Award was passed dismissing the claim made by the union. On coming to know the same, the petitioners filed Exhibit P7 petition before the Labour Court to set aside the ex parte Award, implead them on the party array, condone the delay in filing the petition and consider the matter on merits. That was dismissed by Exhibit P9 holding that the Labour Court had already become functus officio.

3. After having heard counsel on both sides, in the peculiar facts and circumstances of the case, I am of the view that the interest of justice would be served only if the Labour Court adjudicates on the claim made by the union, by giving an opportunity to the aggrieved workers since it is their termination which was the subject matter of the dispute.

I set aside Exhibit P8. The petitioners herein will stand impleaded as additional parties in the Industrial Dispute No. 34/2001. The parties will appear before the Labour Court on 23.07.2007. Thereafter Labour Court will afford sufficient opportunity to the parties, adjudicate on the dispute and pass a proper Award within another six months.

This writ petition is disposed of as above.

KURIAN JOSEPH, JUDGE.

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